

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 11/13/2020

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
UNITED STATES OF AMERICA,

-against-

FRANLKIN MINAYA,

Defendant.
-----X

**01 CR 619 (VM)
ORDER**

VICTOR MARRERO, U.S.D.J.:

On October 1, 2020, the Second Circuit granted defendant Franklin Minaya ("Minaya") permission to pursue a successive 28 U.S.C. § 2255 motion. (See Dkt. No. 392.) The Circuit noted that, among other things, Minaya argues that his convictions under 18 U.S.C. § 924(c) and (j), predicated on attempted Hobbs Act robbery under 18 U.S.C. § 1951, are no longer valid after the Supreme Court decisions in Johnson v. United States, 576 U.S. 591 (2015), and United States v. Davis, 139 S. Ct. 2319 (2019). (Id.)

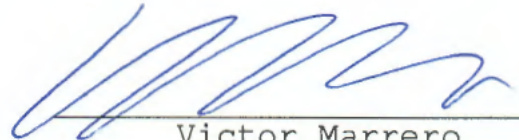
The Circuit further noted that "the issue of whether attempted Hobbs Act robbery is a crime of violence under the § 924(c) (3) (A) force clause has been raised in several appeals now pending in this Court," (id. (citing United States v. McCoy, 2d Cir. 17-3515; United States v. Collymore, 2d Cir. 19-596; United States v. Morris, 2d Cir. 16-6), and it is within the district court's discretion to stay the proceedings pending a decision in one or more of those cases.

Accordingly, it is hereby

ORDERED that the resolution of defendant Franklin Minaya's successive 28 U.S.C. § 2255 motion is held in abeyance pending a decision in one or more of the above-listed appeals. The Clerk of Court is directed to mail a copy of this Order to Franklin Minaya, Register Number 52447-054, USP Lewisburg, U.S. Penitentiary, P.O. Box 1000, Lewisburg, PA 17837, and note service on the docket.

SO ORDERED.

Dated: New York, New York
13 November 2020



Victor Marrero
U.S.D.J.